

Introduced by Senator Steinberg
(Coauthor: Assembly Member Wolk)

February 23, 2007

An act to amend Sections 5010, 5090.02, 5090.15, 5090.50, and 5090.60 of, to repeal Sections 5090.63, 5090.64, and 5090.70 of, and to repeal and add Section 5090.61 of, the Public resources Code, to repeal Sections 8352.7 and 8352.8 of, and to repeal and add Section 8352.6 of, the Revenue and Taxation Code, and to amend Section 38225 of, and to add Sections 38002 and 38003 to, the Vehicle Code, relating to off-highway motor vehicle recreation.

LEGISLATIVE COUNSEL'S DIGEST

SB 742, as introduced, Steinberg. Off-highway motor vehicle recreation.

(1) The Off-Highway Motor Vehicle Recreation Act of 2003 (act), provides for the acquisition, operation, and funding of state off-highway vehicular recreation areas and trails. These provisions are to be repealed on January 1, 2008.

This bill would delete provisions repealing this act, would delete certain obsolete provisions, and would include certain legislative findings and declarations regarding this act.

The bill would require the Department of Parks and Recreation to set the amount of the fee to be charged for state vehicular recreation area usage.

(2) Under the act, grants may be made to cities, counties, and districts, and cooperative agreements may be entered into with federal agencies or federally recognized Native American tribes.

This bill would require grants and cooperative agreements to be project oriented and would place specific limitations on those grants and agreements.

(3) The act currently provides an allocation schedule for the distribution of certain moneys in the Off-Highway Vehicle Trust Fund.

This bill would recast that schedule to provide that moneys in the fund shall be available, upon appropriation, so that an amount, equal to an unspecified percentage, is allocated to the Department of Parks and Recreation for support of recreation associated with off-highway vehicle use, outside the state vehicular recreation areas, an amount equal to an unspecified percentage is allocated to the department to support recreation within those areas, and an amount equal to an unspecified percentage is allocated for local assistance and cooperative agreements.

(4) Existing law requires certain money, the amount of which is determined by specified formulas, in the Motor Vehicle Fuel Account (the fuel account) attributable to taxes imposed upon distribution of motor vehicle fuel related to specified off-highway motor vehicles and off-highway vehicle activities, to be transferred from that account on the first day of every month to the Off-Highway Vehicle Trust Fund (the fund) or the Conservation and Enforcement Services Account (the enforcement account). The money in the fund and the enforcement account is required to be used, upon appropriation, for specified purposes related to off-highway motor vehicle recreation.

This bill would repeal those provisions requiring the transfer of that money from the fuel account, and, instead, would require certain money in the fuel account to be transferred to the fund. The bill would state the Legislature's intent to determine the amount of money required to be transferred to the fund by a formula based on factors, including the number of vehicles registered as off-highway motor vehicles, the number of off-highway motor vehicles sold, and the attendance numbers at state vehicular recreation areas during the previous years. The bill would require the amount transferred in fiscal year 2006-07 to be a baseline for the formula.

(5) Existing law, until January 1, 2008, generally imposes a service fee of \$7 for the issuance or renewal of identification of off-highway motor vehicles subject to identification, and a special fee of \$8 that is required to be paid at the time of payment of the service fee. Until January 1, 2008, existing law requires specified money, including that special fee, the money transferred to the fund as described in (4) above, and specified use fees for state vehicular recreation areas, to be deposited

in the Off-Highway Vehicle Trust Fund. On and after January 1, 2008, existing law repeals those provisions, except for the imposition of the \$7 service fee.

This bill, on and after January 1, 2008, would impose a special fee of \$67 that would be required to be paid at the time of payment of the service fee. The bill would require the special fees, money transferred to the fund from the fuel account pursuant to the bill, and specified use fees for state vehicular recreation areas to be deposited in the fund. The bill would specify that the fund is a trust fund and that, upon appropriation, money in the fund is required to be allocated by the Off-Highway Motor Vehicle Recreation Commission, as trustee of the fund, to be used for specified purposes related to off-highway recreation.

(6) The bill would state the Legislature's intent to require a person operating an off-highway motor vehicle on private property of another to maintain in his or her possession written permission from the property owner granting permission to operate the vehicle on the property. The bill also would state the Legislature's intent to impose an unspecified fee on the sale of vehicles that are required to be registered as off-highway motor vehicles, and to deposit the fees in a dedicated fund to provide funding for planning, acquiring, developing, or constructing local and regional off-highway motor vehicle recreation facilities.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) It is the intent of the Legislature to require
- 2 that all off-road motor vehicles sold and registered or identified
- 3 in California meet the exhaust emissions requirements for "green
- 4 sticker" vehicles established under subdivision (b) of Section 2412
- 5 of Title 13 of the California Code of Regulations.
- 6 (b) It is the further intent of the Legislature that new registration
- 7 or identification of off-highway motor vehicles shall not be allowed
- 8 with a "red sticker" under the current restrictions of subdivision
- 9 (f) of Section 2412 of Title 13 of the California Code of
- 10 Regulations.
- 11 (c) It is the intent of the Legislature to appropriate money from
- 12 the Conservation and Enforcement Services Account in the
- 13 Off-Highway Vehicle Trust Fund to the Department of Parks and
- 14 Recreation to cover the costs incurred by the United States Fish

1 and Wildlife Service in completing the federal government's
2 off-highway vehicle route designation process on federal lands in
3 California.

4 SEC. 2. Section 5010 of the Public Resources Code is amended
5 to read:

6 5010. (a) The department may collect fees, rents, and other
7 returns for the use of any state park system area, the amounts to
8 be determined by the department. The department may accept a
9 credit card as a method of payment for fees collected through the
10 department's reservation system. Any contract executed by the
11 department with credit card issuers or draft purchasers shall be
12 consistent with Section 6159 of the Government Code.
13 Notwithstanding Title 1.3 (commencing with Section 1747) of
14 Part 4 of Division 3 of the Civil Code, the department may impose
15 a surcharge in an amount to cover the cost of providing the
16 reservation service, including reimbursement for any fee or
17 discount charged by the credit card issuer.

18 *(b) The fee for use of a state vehicular recreation area shall be*
19 *determined by the department. At least 30 days prior to the*
20 *adoption of a proposal to charge a fee, the Off-Highway Motor*
21 *Vehicle Recreation Commission shall hold at least one public*
22 *hearing and the department shall notify the Legislature. The*
23 *department shall also provide the Legislature with a report*
24 *estimating the impact the proposed new fee will have on the*
25 *Off-Highway Motor Vehicle Trust Fund and the attendance at the*
26 *state vehicular recreation areas. The amount of the fee for the use*
27 *of a state vehicular recreation area shall be at least ten dollars*
28 *(\$10) for the first vehicle and an additional ten dollars (\$10) for*
29 *a vehicle towed by the first vehicle and shall cover the cost of*
30 *maintaining the use of the areas.*

31 ~~(b)~~

32 (c) All revenues received by the department during each fiscal
33 year shall be paid into the State Treasury to the credit of the State
34 Parks and Recreation Fund, which is hereby created.

35 ~~(e)~~

36 (d) Notwithstanding subdivision ~~(b)~~ (c), all revenues received
37 by the department from the state vehicular recreation areas shall
38 be paid into the State Treasury to the credit of the Off-Highway
39 Vehicle Trust Fund, as required by Section 38225 of the Vehicle
40 Code.

~~(d)~~

(e) All revenues received by the department for the entry or launching of boats shall be paid into the State Treasury to the credit of the State Parks and Recreation Fund and shall be used for boating safety, enforcement, operation, and maintenance programs of the department.

~~(e) On July 1, 1980, all~~

(f) All existing balances, including unappropriated balances and encumbered and unencumbered balances, of the following funds and accounts shall be transferred to the State Parks and Recreation Fund:

(1) Park and Recreation Revolving Account (Section 5098; *of the Public Resources Code, as added by Chapter 1222; of the Statutes of 1972*).

(2) The Resources Protection Account (Section 8600; *of the Public Resources Code, as added by Chapter 1052; of the Statutes of 1969*).

(3) Collier Park Preservation Fund (Section 5010; *of the Public Resources Code, as added by Chapter 1502; of the Statutes of 1974*).

(4) San Francisco Maritime State Historic Park Account (Section 2; *of Chapter 1764; of the Statutes of 1971*).

(5) State Park Highway Account, Bagley Conservation Fund (Section 2107.7; *of the Streets and Highways Code, as added by Chapter 1032; of the Statutes of 1973*).

(6) All funds received by the department pursuant to Division 21 (commencing with Section 31000).

(7) Hostel Facilities Use Fees Account (Section 2; *of Chapter 265; of the Statutes of 1974*).

(8) All funds, other than expended funds, previously appropriated to the department from the Bagley Conservation Fund.

~~(f) On and after July 1, 1980, all~~

(g) All funds, other than those specified in subdivisions ~~(g)~~ and ~~(h)~~ (h) and (i), in the State Parks and Recreation Fund shall be available for expenditure for state park planning, acquisition, and development projects, operation of the state park system, and resource and property management and protection, when appropriated by the Legislature.

~~(g)~~

1 (h) All funds in the State Parks and Recreation Fund ~~which that~~
2 had previously been appropriated and have become encumbered,
3 may be used, without further appropriation, for liquidation of those
4 encumbrances, upon the same terms and conditions as made by
5 those previous appropriations.

6 ~~(h)~~

7 (i) The balance of any unencumbered funds in the State Park
8 Highway Account in the Bagley Conservation Fund shall be
9 transferred to the State Parks and Recreation Fund and shall be
10 available for expenditure as provided in subdivisions (b) and (c)
11 of Section 2107.7 of the Streets and Highways Code.

12 ~~(i)~~

13 (j) All funds received by the Department of Parks and Recreation
14 from the auction sales conducted pursuant to Section 2080.6 of
15 the Civil Code shall be paid into the State Treasury to the credit
16 of the State Parks and Recreation Fund and shall be used for
17 training department employees in the Ranger/Lifeguard
18 classification, including, but not limited to, resource management
19 and protection, law enforcement, interpretation, first aid,
20 cardiopulmonary resuscitation, and medical technical training.

21 SEC. 3. Section 5090.02 of the Public Resources Code is
22 amended to read:

23 5090.02. (a) The Legislature finds ~~that off-highway and~~
24 ~~declares all of the following:~~

25 (1) *Off-highway* motor vehicles are enjoying an ever-increasing
26 popularity in California ~~and that the~~.

27 (2) *Off-highway recreation includes both motorized recreation*
28 *and nonmotorized recreation activities that are accessed*
29 *off-highway.*

30 (3) *The* indiscriminate and uncontrolled use of those vehicles
31 may have a deleterious impact on the environment, wildlife
32 habitats, native wildlife, and native flora.

33 (b) The Legislature hereby declares that effectively managed
34 areas and adequate facilities for the use of off-highway vehicles
35 and conservation and enforcement are essential for ecologically
36 balanced recreation.

37 (c) Accordingly, it is the intent of the Legislature that:

38 (1) Existing off-highway motor vehicle recreational areas,
39 facilities, and opportunities be expanded and be managed in a

1 manner consistent with this chapter, in particular to maintain
2 sustained long-term use.

3 (2) New off-highway motor vehicle recreational areas, facilities,
4 and opportunities be provided and managed pursuant to this chapter
5 in a manner that will sustain long-term use.

6 *(3) The department shall support both motorized and*
7 *nonmotorized recreation related to off-highway vehicle use.*

8 ~~(3)~~

9 (4) When areas or trails or portions thereof cannot be maintained
10 to appropriate established standards for sustained long-term use,
11 they shall be closed to use and repaired, to prevent accelerated
12 erosion. Those areas shall remain closed until they can be managed
13 within the soil conservation standard or shall be closed and
14 restored.

15 ~~(4)~~

16 (5) Prompt and effective implementation of the Off-Highway
17 Motor Vehicle Recreation Program by the Division of Off-Highway
18 Motor Vehicle Recreation shall have an equal priority among other
19 programs in the department.

20 ~~(5)~~

21 (6) Off-highway motor vehicle recreation be managed in
22 accordance with this chapter through financial assistance to local
23 government and joint undertakings with agencies of the United
24 States.

25 SEC. 4. Section 5090.15 of the Public Resources Code is
26 amended to read:

27 5090.15. (a) There is in the department the Off-Highway Motor
28 Vehicle Recreation Commission, consisting of seven members,
29 three of whom shall be appointed by the Governor, two of whom
30 shall be appointed by the Senate Committee on Rules, and two of
31 whom shall be appointed by the Speaker of the Assembly.

32 (b) In order to be appointed to the commission, a nominee shall
33 represent one or more of the following groups:

34 (1) Off-highway vehicle recreation interests.

35 (2) Biological or soil scientists.

36 (3) Groups or associations of predominantly rural landowners.

37 (4) Law enforcement.

38 (5) Environmental protection organizations.

39 (6) Nonmotorized recreationist interests.

1 It is the intent of the Legislature that appointees to the
2 commission represent all of the groups delineated in paragraphs
3 (1) to (6), inclusive, to the extent possible.

4 (c) Whenever a reference is made to the State Park and
5 Recreation Commission pertaining to a duty, power, purpose,
6 responsibility, or jurisdiction of the State Park and Recreation
7 Commission with respect to the state vehicular recreation areas,
8 as established by this chapter, it is a reference to, and means, the
9 Off-Highway Motor Vehicle Recreation Commission.

10 ~~(d) This section shall remain in effect only until January 1, 2008,~~
11 ~~and as of that date is repealed, unless a later enacted statute that~~
12 ~~is enacted before January 1, 2008, deletes or extends that date.~~

13 SEC. 5. Section 5090.50 of the Public Resources Code is
14 amended to read:

15 5090.50. (a) Grants may be made to cities, counties, and
16 appropriate districts if the grant applicant has approval to apply
17 for grant funds, in the form of a resolution from its governing body.

18 (b) The division may enter into cooperative agreements with
19 agencies of the United States and federally recognized Native
20 American tribes.

21 (c) Grants and cooperative agreements may be awarded for the
22 planning, acquisition, development, maintenance, administration,
23 operation, enforcement, restoration, and conservation of trails,
24 trailheads, areas, and other facilities associated with the use of
25 off-highway motor vehicles, and programs involving off-highway
26 motor vehicle safety or education.

27 (d) Grant and cooperative agreement applications shall be in
28 accordance with local or federal plans and any plans for
29 off-highway motor vehicle recreation prepared by the division.

30 (e) Notwithstanding subdivision (c), funds may be used for law
31 enforcement and repairing damage caused by the use of
32 off-highway motor vehicles on property being used by off-highway
33 motor vehicles where the operation of those vehicles is prohibited
34 by federal, state, or local law.

35 (f) Notwithstanding subdivision (c), grants may be awarded to
36 educational institutions and nonprofit organizations for eligible
37 projects that are designed to sustain a managed off-highway motor
38 vehicle recreation program. Eligible projects shall be limited to
39 scientific research, natural resource conservation activities, as
40 defined in Section 5090.10, cultural resource conservation

activities, and programs involving off-highway motor vehicle safety or education. If the application for grant funds involves activities on any public lands, the applicant shall obtain approval from the affected land management agency and submit that approval with the application for grant funds. All projects shall comply with the requirements of subdivisions (g) and (h).

(g) Every applicant for a grant shall comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000)). The division shall ensure that all cooperative agreement applications have completed environmental review procedures that are at least comparable to those of the California Environmental Quality Act.

(h) All cooperative agreements shall be subject to the uniform application of soil, wildlife, and wildlife habitat protection standards specified in Section 5090.53.

(i) Subdivision (h) does not apply to applicants that apply solely for law enforcement funding.

(j) ~~No grant may~~ *A grant shall not* be made or cooperative agreement entered into under this section without the approval of the commission.

(k) *Grants and cooperative agreements shall be project oriented. The maximum amount awarded for a specific project or applicant shall not exceed ____ percent of the total funds allocated for grants in that fiscal year.*

(l) *All grants awarded to federal agencies, on or after July 1, 2008, shall require a one-to-one federal match, shall be project oriented, and shall require the filing of a spending report with the division providing a detailed accounting of the annual expenditure of the grant funds until those funds are spent or returned to the division. The aggregate amount of grant funds awarded to federal agencies in all categories shall not exceed ____ percent of the total grants allocated in that fiscal year.*

(m) *Grant funds, or any other funds deposited in the fund, shall not be used to cover the costs of privately sponsored special off-highway vehicle events, when the cost of those events can be covered through the permit process by event sponsors or permittees.*

SEC. 6. Section 5090.60 of the Public Resources Code is amended to read:

1 5090.60. The fund consists of deposits from the following
2 sources:

3 (a) Revenues transferred from the Motor Vehicle Fuel Account
4 in the Transportation Tax Fund.

5 (b) Fees paid pursuant to subdivision (b) of Section 38225 of
6 the Vehicle Code.

7 (c) Unexpended service fees.

8 (d) Fees and other proceeds collected at state vehicular
9 recreation areas, as provided in subdivision-(e) (d) of Section 5010.

10 (e) Reimbursements.

11 (f) Revenues and income from any other source required by law
12 to be deposited in the fund.

13 SEC. 7. Section 5090.61 of the Public Resources Code is
14 repealed.

15 ~~5090.61. Money in the fund shall be available, upon~~
16 ~~appropriation by the Legislature, for allocation by the commission~~
17 ~~as follows:~~

18 ~~(a) An amount, not to exceed 50 percent of the revenues from~~
19 ~~the special fee required by subdivision (b) of Section 38225 of the~~
20 ~~Vehicle Code, the revenues transferred from the Motor Vehicle~~
21 ~~Fuel Account, and revenue received from interest, is available for~~
22 ~~local assistance grants or cooperative agreements pursuant to~~
23 ~~Article 5 (commencing with Section 5090.50).~~

24 ~~(b) The remainder of the revenues from the special fee required~~
25 ~~by subdivision (b) of Section 38225 of the Vehicle Code and the~~
26 ~~remainder of the revenues transferred from the Motor Vehicle Fuel~~
27 ~~Account, together with all other moneys in the fund, shall be~~
28 ~~available for the support of the division in implementing the~~
29 ~~program and for the planning, acquisition, development,~~
30 ~~construction, maintenance, administration, operation, and~~
31 ~~conservation of lands in the system. As used in this subdivision,~~
32 ~~“support of the division” includes functions performed outside the~~
33 ~~division by others on behalf of the division, including costs~~
34 ~~incurred on behalf of the division for personnel management and~~
35 ~~training, accounting and fiscal analysis, records, purchasing, public~~
36 ~~information activities, consultation of professional scientists and~~
37 ~~reclamation experts for purposes of Section 5090.35, and legal~~
38 ~~services.~~

1 ~~“Support of the division” does not include any costs incurred~~
2 ~~by, or attributable to, the director or the director’s immediate staff~~
3 ~~or their salaries.~~

4 SEC. 8. Section 5090.61 is added to the Public Resources Code,
5 to read:

6 5090.61. (a) Moneys in the fund shall be available, upon
7 appropriation by the Legislature, as follows:

8 (1) An amount, equal to ____ percent of the fund, shall be
9 allocated to the department to support recreation associated with
10 off-highway vehicle use, outside of state vehicular recreation areas.

11 (2) An amount, equal to ____ percent of the fund, shall be
12 allocated to the department to support recreation within the state
13 vehicular recreation areas.

14 (3) An amount, equal to ____ percent of the fund, shall be
15 allocated for local assistance grants and cooperative agreements.

16 (b) It is the intent of the Legislature to simplify the allocation
17 of moneys in the fund in a manner that increases oversight and
18 accountability over the current system. The Legislature also intends
19 to revise expenditure requirements to better protect off-highway
20 riding opportunities, the environment, and public safety through
21 support of local assistance grants or cooperative agreements and
22 the division. The grants program will have minimums established
23 for certain spending categories such as restoration, conservation,
24 law enforcement, and education while maintaining flexibility for
25 the commission.

26 SEC. 9. Section 5090.63 of the Public Resources Code is
27 repealed.

28 ~~5090.63. This article shall become operative on July 1, 1983.~~

29 SEC. 10. Section 5090.64 of the Public Resources Code is
30 repealed.

31 ~~5090.64. (a) Thirty percent of the funds allocated pursuant to~~
32 ~~Section 8352.8 of the Revenue and Taxation Code shall be~~
33 ~~expended solely for restoration activities, as defined in Section~~
34 ~~5090.11.~~

35 ~~(b) Seventy percent of the funds allocated pursuant to Section~~
36 ~~8352.8 of the Revenue and Taxation Code shall be expended solely~~
37 ~~for the following activities related to the use of off-highway motor~~
38 ~~vehicles:~~

~~(1) Conservation activities carried out for the prevention or reduction of soil loss, wildlife loss, and habitat loss as described in Sections 5090.10, 5090.35, 5090.50, and 5090.53.~~

~~(2) Enforcement activities consisting of employing, equipping, and supervising law enforcement personnel for the purpose of protecting natural and cultural resources, enforcement of Division 16.5 (commencing with Section 38000) of the Vehicle Code, enforcement of Sections 4442 and 4442.5 of this code, and enforcement of other laws regulating the equipment and use of off-highway motor vehicles.~~

~~(3) The construction of physical barriers and other means of traffic control regulating the use of off-highway motor vehicles.~~

SEC. 11. Section 5090.70 of the Public Resources Code is repealed.

~~5090.70. This chapter shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.~~

SEC. 12. Section 8352.6 of the Revenue and Taxation Code is repealed.

~~8352.6. (a) Subject to Sections 8352 and 8352.1, on the first day of every month, there shall be transferred from money deposited in the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund created by Section 38225 of the Vehicle Code an amount determined on the basis of the estimate contained in the most recent report prepared pursuant to this section.~~

~~(b) The amount transferred pursuant to subdivision (a) represents the portion of receipts in the Motor Vehicle Fuel Account that is attributable to taxes imposed upon distributions of motor vehicle fuel used in the off-highway operation of vehicles identified by being currently registered as off-highway vehicles as required by Division 16.5 (commencing with Section 38000) of the Vehicle Code for which a refund has not been claimed. Transfers made pursuant to this section shall be made prior to transfers pursuant to Section 8352.2.~~

~~(c) On or before August 15, 1973, and every two years thereafter, the Department of Transportation shall prepare, or cause to be prepared, in cooperation with the Department of Parks and Recreation, a report setting forth the current estimate of the amount of money credited to the Motor Vehicle Fuel Account that is~~

1 attributable to taxes imposed on distributions of motor vehicle fuel
2 used in the off-highway operation of vehicles identified by being
3 currently registered as off-highway vehicles as required by Division
4 16.5 (commencing with Section 38000) of the Vehicle Code for
5 which a refund has not been claimed, and shall submit a copy of
6 the report to the Legislature.

7 SEC. 13. Section 8352.6 is added to the Revenue and Taxation
8 Code, to read:

9 8352.6. (a) Subject to Section 8352.1, on the first day of every
10 month, there shall be transferred from money deposited to the
11 credit of the Motor Vehicle Fuel Account to the Off-Highway
12 Vehicle Trust Fund created by Section 38225 of the Vehicle Code
13 an amount determined pursuant to subdivision (b).

14 (b) It is the intent of the Legislature to determine the appropriate
15 amount to be transferred pursuant to subdivision (a) through a
16 formula based on factors including number of vehicles registered
17 as off-highway motor vehicles, as defined in Section 38006 of the
18 Vehicle Code, the number of off-highway motor vehicles sold,
19 and the attendance numbers at the state vehicular recreation areas
20 during the previous year. The amount transferred in the 2006-07
21 fiscal year, _____, shall be used as a baseline for this formula.

22 SEC. 14. Section 8352.7 of the Revenue and Taxation Code
23 is repealed.

24 ~~8352.7. (a) Subject to Section 8352.1, on the first day of every~~
25 ~~month, there shall be transferred from money deposited to the~~
26 ~~credit of the Motor Vehicle Fuel Account to the Off-Highway~~
27 ~~Vehicle Trust Fund created by Section 38225 of the Vehicle Code~~
28 ~~an amount determined on the basis of the estimate contained in~~
29 ~~the most recent report prepared pursuant to this section.~~

30 ~~(b) The amount transferred pursuant to subdivision (a) represents~~
31 ~~the money deposited to the credit of the Motor Vehicle Fuel~~
32 ~~Account that is attributable to taxes imposed upon distributions of~~
33 ~~motor vehicle fuel used in motor vehicles subject to registration~~
34 ~~under Division 3 (commencing with Section 4000) of the Vehicle~~
35 ~~Code, while engaged in off-highway recreational use, for which~~
36 ~~a refund has not been claimed, or for which no person is entitled~~
37 ~~to a refund. Transfers made pursuant to this section shall be made~~
38 ~~prior to transfers pursuant to Section 8352.2.~~

39 ~~(c) On or before August 15, 1975, and every two years~~
40 ~~thereafter, the Department of Transportation shall prepare, or cause~~

1 to be prepared, in cooperation with the Department of Parks and
2 Recreation, a report, a copy of which shall be submitted to the
3 Legislature, setting forth the current estimate of the amount of
4 money credited to the Motor Vehicle Fuel Account that is
5 attributable to taxes imposed on distributions of motor vehicle fuel
6 used in motor vehicles subject to registration under Division 3
7 (commencing with Section 4000) of the Vehicle Code, while
8 engaged in off-highway recreational use, and for which a refund
9 has not been claimed, or for which no person is entitled to a refund.

10 (d) It is the intent of the Legislature that the off-highway
11 recreational use, to be determined by the Department of
12 Transportation pursuant to this section, be that usage by vehicles
13 subject to registration under Division 3 (commencing with Section
14 4000) of the Vehicle Code, for recreation or the pursuit of
15 recreation on surfaces where the use of vehicles registered under
16 Division 16.5 (commencing with Section 38000) of the Vehicle
17 Code may occur.

18 SEC. 15. Section 8352.8 of the Revenue and Taxation Code
19 is repealed.

20 8352.8.—(a) The Conservation and Enforcement Services
21 Account is hereby established as an account in the Off-Highway
22 Vehicle Trust Fund. Subject to Sections 8352 and 8352.1, on the
23 first day of every month there shall be transferred from money
24 deposited in the Motor Vehicle Fuel Account to the Conservation
25 and Enforcement Services Account the total amount determined
26 on the basis of the estimates contained in this section.

27 (b) On or before August 15, 1987, and every two years
28 thereafter, the Department of Transportation shall prepare, or cause
29 to be prepared, in cooperation with the Department of Parks and
30 Recreation, a report setting forth the current estimate of the amount
31 of money credited to the Motor Vehicle Fuel Account that is
32 attributable to taxes imposed upon distributions of motor vehicle
33 fuel estimated to have been used in the off-highway operation of
34 vehicles required to be registered as off-highway vehicles by
35 Division 16.5 (commencing with Section 38000) of the Vehicle
36 Code, but which were not so registered, and shall submit a copy
37 of the report to the Legislature.

38 (c) Funds in the Conservation and Enforcement Services
39 Account shall be allocated to the Division of Off-Highway Motor
40 Vehicle Recreation of the Department of Parks and Recreation for

1 expenditure when appropriated by the Legislature for the purposes
2 of Section 5090.64 of the Public Resources Code.

3 ~~(d) On or before January 1, 2005, the Division of Off-Highway~~
4 ~~Motor Vehicle Recreation in the Department of Parks and~~
5 ~~Recreation shall submit a report to the Legislature that identifies~~
6 ~~the appropriate level of funding necessary to sustain conservation~~
7 ~~and enforcement needs, grant areas, state vehicular recreation~~
8 ~~areas, capital outlay, and division support, based upon an analysis~~
9 ~~of program income and expenditures during the preceding five~~
10 ~~fiscal years and the findings contained in the most recent fuel tax~~
11 ~~study.~~

12 SEC. 16. Section 38002 is added to the Vehicle Code, to read:

13 38002. The Legislature intends to require a person operating
14 an off-highway motor vehicle on the private property of another
15 to maintain in his or her possession written permission from the
16 property owner granting permission to operate the off-highway
17 motor vehicle on the property.

18 SEC. 17. Section 38003 is added to the Vehicle Code, to read:

19 38003. The Legislature intends to impose a fee of ____ on the
20 sale of vehicles that are required to be registered as an off-highway
21 motor vehicle pursuant to this division. The Legislature intends
22 the fees to be deposited in a dedicated fund, called the New
23 Off-Highway Vehicle Recreation Opportunity Fund, to provide
24 funding for planning, acquiring, developing, or constructing local
25 and regional off-highway motor vehicle facilities. The local and
26 regional facilities should be subject to the same soil conservation
27 standards, habitat protection programs, and environmental
28 regulations as the state-operated vehicular recreation areas, in
29 addition to any local requirements. Manufacturers of off-highway
30 motor vehicles may voluntarily contribute to the fund.

31 SEC. 18. Section 38225 of the Vehicle Code, as amended by
32 Section 58 of Chapter 77 of the Statutes of 2006, is amended to
33 read:

34 38225. (a) A service fee of seven dollars (\$7) shall be paid to
35 the department for the issuance or renewal of identification of
36 off-highway motor vehicles subject to identification, except as
37 expressly exempted under this division.

38 *(b) In addition to the service fee required by subdivision (a), a*
39 *special fee of sixty-seven dollars (\$67) shall be paid at the time of*

1 *payment of the service fee for the issuance or renewal of an*
2 *identification plate or device.*

3 *(c) All money transferred pursuant to Section 8352.6 of the*
4 *Revenue and Taxation Code, all fees received by the department*
5 *pursuant to subdivision (b), and all day use, overnight use, or*
6 *annual or biennial use fees for state vehicular recreation areas*
7 *received by the Department of Parks and Recreation, shall be*
8 *deposited in the Off-Highway Vehicle Trust Fund, which is hereby*
9 *created. There shall be a separate reporting of special fee revenues*
10 *by vehicle type, including four-wheeled vehicles, three-wheelers,*
11 *motorcycles, and snowmobiles. All money shall be deposited in*
12 *the fund, which is a trust fund, and, upon appropriation by the*
13 *Legislature, shall be allocated by the Off-Highway Motor Vehicle*
14 *Recreation Commission, as trustee of the fund, and, subject to*
15 *Section 5090.61 of the Public Resources Code, shall be allocated*
16 *for those purposes set forth in Section 5090.50 of the Public*
17 *Resources Code.*

18 ~~*(b) This section shall become operative on January 1, 2008.*~~